



Testimony of the Michigan Cable Telecommunications Association  
Before The House Tax Policy Committee  
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Presented by  
Michael Ashton, Fraser Trebilcock Davis and Dunlap, P.C.

Good morning Representatives, on behalf of the Michigan Cable Telecommunications Association (MCTA), I would like to thank you for the opportunity to provide testimony this morning regarding HB 5460, HB 5461 and HB 5462.

The MCTA appreciates the effort of this Committee to address the important tax policy set forth in these three bills prior to the effective date of the Michigan Business Tax (MBT). MCTA whole heartedly supports the passage of these three bills before January 1, 2008.

HB 5462 is of particular importance to ensure two essential tax policy goals: (1) equal treatment of taxpayers and (2) the avoidance of double taxation under the new modified gross receipts tax.

#### **Equal Treatment**

Passage of HB 5462 is essential to ensure the equal treatment of cable operators and other similarly situated taxpayers in the calculation of their gross receipts tax base. As enacted this summer, the MBT allows sellers of tangible

personal property a deduction for their cost of goods sold or inventory from their gross receipts tax base. Similarly, staffing companies received a deduction for compensation of personnel, which is the predominant cost component of their business. See Section 113(6)(d). And this last week the Legislature enacted the surcharge legislation, HB 5408, which added new subsection 113(6)(f) to provide theater owners a GRT programming deduction. The deductions received by sellers of tangible personal property and staffing companies, and now theater owners, are defined in the MBT as "purchases from other firms." As a matter of fairness and equity, cable operators are entitled to a similar deduction for their "purchases from other firms."

Just like sellers of personal property and staffing companies, cable operators also have "purchases from other firms." These purchases are for content or programming shown on their cable systems, or as defined in HB 5462 - - "media property". In fact, the predominant cost for cable operators is programming costs (e.g. the costs cable companies pay for content, such as HBO). For a cable operator to be denied a deduction for its purchases of media property from other firms when it is the cable operator's largest single cost item is unfair compared to the treatment of others.

Other similar content industries will receive favored treatment, e.g., movie theaters and movie rental shops, which acquire their content in physical form. Presumably, movie rental shops will deduct their purchases under any of Section 113(6)(a) (inventory); or Section 113(6)(b) (deduction for depreciable items); or

113(6)(c) ("materials and supplies"). If cable operators were selling tangible personal property, then their programming costs would be inventory or cost of goods sold and would fall within the currently defined deduction set forth in the MBT. Yet, because cable operators receive their content via electronic feeds and account for these cost as operating expenses, these costs may not fall within the currently defined deduction. The amendment set forth in HB 5462 corrects this unfair treatment and ensures cable operators and other similarly situated taxpayers receive the proper deduction for their "purchases from other firms."

### **Double Taxation**

Passage of HB 5462 is also critical to avoid a clear case of double taxation. Double taxation occurs because as currently enacted the MBT includes the cable operator's costs for programming in gross receipts tax base twice. By way of illustration, assume a cable operator collects \$15 from a customer for HBO programming and the cable operator pays HBO \$9 of that \$15. Without the fix set forth in HB 5462, the gross receipt tax will be collected against a total of \$24 (\$15 for the cable operator plus \$9 for HBO). The proper result, however, should be to only impose the gross receipt tax on \$15. The gross receipt of the cable operator should be \$6 (\$15 less the cost of purchases from other firms of \$9) and the gross receipt for HBO would be the \$9 it received from the cable operator. The failure to allow a deduction for "purchases from other firms" for cable operators and other similarly situated taxpayers will clearly result in double taxation. HB 5462 corrects this problem.

Finally, MCTA believes that this double taxation was not intended when the MBT was initially passed. As a result, the fix implemented by HB 5462 should be revenue neutral.

MCTA appreciates the opportunity to testify this morning and looks forward to working with this Committee and interested parties in resolving these issues and obtaining passage of HB 5460, HB 5461 and HB 5462 before January 1, 2008.

Thank you.